

REMARKS/ARGUMENTS

Prior to entry of this amendment, claims 1-25 are currently pending in the subject application.

Applicants appreciate the Examiner's acknowledgement of applicants' claim for foreign priority and receipt of a certified copy of the priority document.

Applicants further appreciate the Examiner's acceptance of the drawings filed on February 4, 2004.

Claims 1-25 are presented to the Examiner for further prosecution on the merits. Claim 1 is the sole independent claim.

A. Introduction

In the outstanding Office action, the Examiner rejected claims 1, 4, 8, 10, 12, 16, 18, 20 and 21 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,841,817 to Kurasawa et al. ("the Kurasawa et al. reference"), rejected claims 1-4, 6, 8-12, 14 and 16-25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,229,166 to Kim et al. ("the Kim reference"), and rejected claims 2, 3, 5, 6, 7, 9, 11, 13, 14, 15, 17, 19 and 22-25 under 35 U.S.C. § 103(a) as being unpatentable over the Kurasawa et al. reference in view of the Kim reference.

In the outstanding Office action, the Examiner also indicated that the species restriction, which was issued on March 15, 2005, has been withdrawn. The Examiner further indicated that claims 1-25 are pending and are examined in the outstanding Office action. Applicants appreciate the Examiner's withdrawal of this restriction. In view of the withdrawal of this restriction, claims 10, 11, 18 and 19 are denoted "original" in the listing of the claims, as these claims have never been amended.

B. Summary of Telephonic Interview of July 11, 2005

On July 11, 2005, the Examiner was contacted regarding the status of claims 5 and 13, which were not explicitly addressed in the outstanding Office action. At that time, the Examiner indicated that claims 5 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kurasawa et al. reference in view of the Kim et al. reference. The rejection of these claims is discussed below. Applicants appreciate the Examiner's clarification of the status of these claims.

C. Asserted Anticipation Rejection of Claims 1, 4, 8, 10, 12, 16, 18, 20 and 21

In the outstanding Office action, the Examiner rejected claims 1, 4, 8, 10, 12, 16, 18, 20 and 21 under 35 U.S.C. § 102(e) as being anticipated by the Kurasawa et al. reference. Applicants respectfully submit that the Kurasawa et al. reference fails to disclose, or even suggest, each and every element of the rejected claims for at least the reasons set forth below.

Claim 1, as currently amended, recites, in part, "wherein at least one ferroelectric film is a BSO-PZT film." No new matter is added, and support for this amendment can be found in the specification at, e.g., paragraph [0040] and claims 8 and 9. Applicants respectfully submit that the Kurasawa et al. reference fails to disclose this claim element. In the outstanding Office action, the Examiner asserted that the Kurasawa et al. reference discloses a dielectric layer that may comprise PZT and may comprise PLZT. *Office action mailed June 29, 2005, at paragraph 2, page 3.* However, the Kurasawa et al. reference fails to disclose or suggest a dielectric layer wherein at least one ferroelectric film is a BSO-PZT film.

Applicants respectfully submit that the Kurasawa et al. reference fails to disclose, or even suggest, each and every element of claim 1 for at least the reasons set forth above. The remaining rejected claims depend, either directly or indirectly, from claim 1. Accordingly, applicants respectfully submit that claims 1, 4, 8, 10, 12, 16, 18, 20 and 21 are in condition for allowance, and respectfully request that this rejection be reconsidered and withdrawn.

D. Asserted Anticipation Rejection of Claims 1-4, 6, 8-12, 14 and 16-25

In the outstanding Office action, the Examiner rejected claims 1-4, 6, 8-12, 14 and 16-25 under 35 U.S.C. § 102(b) as being anticipated by the Kim et al. reference. Applicants respectfully submit that the Kim et al. reference fails to disclose, or even suggest, each and every element of the rejected claims for at least the reasons set forth below.

As discussed above, claim 1, as currently amended, recites, in part, “wherein at least one ferroelectric film is a BSO-PZT film.” Applicants respectfully submit that the Kim et al. reference fails to disclose or suggest a dielectric layer wherein at least one ferroelectric film is a BSO-PZT film. Accordingly, applicants respectfully submit that the Kim et al. reference fails to disclose, or even suggest, each and every element of claim 1. The remaining rejected claims depend, either directly or indirectly, from claim 1. Accordingly, applicants respectfully submit that claims 1-4, 6, 8-12, 14 and 16-25 are in condition for allowance, and respectfully request that this rejection be reconsidered and withdrawn.

E. Asserted Obviousness Rejection

In the outstanding Office action, the Examiner rejected claims 2, 3, 5, 6, 7, 9, 11, 13, 14, 15, 17, 19 and 22-25 under 35 U.S.C. § 103(a) as being unpatentable over the Kurasawa et al. reference in view of the Kim et al. reference. However, the Kurasawa and Kim et al. references fail to suggest, much less disclose, the claim element noted above as missing from claim 1. Therefore, the proposed combination of the Kurasawa and Kim et al. references necessarily fails to disclose or suggest that claim element. Accordingly, applicants respectfully submit the claims depending from claim 1, including claims 2, 3, 5, 6, 7, 9, 11, 13, 14, 15, 17, 19 and 22-25, are allowable for at least the reasons set forth above regarding claim 1. Therefore, applicants respectfully request that this rejection be reconsidered and withdrawn.

F. Conclusion

Since the cited prior art relied on to reject the claims of the subject application fails to anticipate or render obvious the present invention, applicants respectfully submit that claims 1-25 are in condition for allowance, and a notice to that effect is respectfully requested.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE & MORSE, P.C.

Date: September 20, 2005


Eugene M. Lee, Reg. No. 32,039

LEE & MORSE, P.C.
1101 WILSON BOULEVARD, SUITE 2000
ARLINGTON, VA 22209
703.525.0978 TEL
703.525.4265 FAX

**PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION**

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.